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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,118	01/05/2001	Marlo Donald Neuleib	8528-004-64	3274

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EXAMINER

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

8k

# Office Action Summary

Application No.

09/754,118

Applicant(s)

NEULEIB, MARLO DONALD

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17, 18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14, 17, 18 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 9 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The Office action is in response to the applicant's amendment filed on 12/22/03. Upon further consideration, the finality is being withdrawn and new rejections are presenting as following:

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 8, 11-14, 17-18, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Matich (US 2,708,543).

Matich teaches a rubber grip roof ladder comprising a length of a connecting material 12 is non-skid rubber (col. 1, line 24), a plurality of steps 26 attached to the connecting material 12, the steps 26 being spaced apart and parallel by a distance sufficient to allow an adult to kneel between neighboring steps 26; the step comprises a toehold portion T (see attached drawing fig. 1) and a base portion 32, 34 attached to the connecting material 12, the toehold portion T defined by an upper generally planar support surface U for engaging a portion of a user's foot, an opposing lower surface L, and an edge surface 28 extending there between wherein the upper generally planar support surface U is disposed substantially perpendicular to the base portion 32, 34, a depression 54 serves as a handle having hollow opening 54, a keyhole 62, a lifeline 80 (figs. 1-7).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matich '543.

Matich teaches a rubber grip roof ladder comprising a length of a connecting material 12 is non-skid rubber (col. 1, line 24), a plurality of steps 26 attached to the connecting material 12, the steps 26 being spaced apart and parallel by a distance sufficient to allow an adult to kneel between neighboring steps 26; the step comprises a toehold portion T (see attached drawing fig. 1) and a base portion 32, 34 attached to the connecting material 12, the toehold portion T defined by an upper generally planar support surface U for engaging a portion of a user's foot, an opposing lower surface L, and an edge surface 28 extending there between wherein the upper generally planar support surface U is disposed substantially perpendicular to the base portion 32, 34, a depression 54 serves as a handle having hollow opening 54, a keyhole 62, a lifeline 80 (figs. 1-7). Matich does not teach expressly the steps are spaced apart by approximately 20-36", the connecting material is approximately 10-36" wide, and is nylon 6000 pound seat belt webbing, and nylon 900-1,000 denier. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select the specific dimension for the steps, the connecting material, since it has been held to

be within the general skill of a worker in the art to select a known material and cutting down to the desirable dimensions on the basis of its suitability for the intended use as a matter of obvious design choice.

***Response to Arguments***

Applicant's arguments with respect to claims 1-15, 17-18, and 20-22 have been considered but are considered moot in view of the new grounds of rejections.

***Allowable Subject Matter***

Claims 9 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 9 is allowable for a lifeline attached to the handle and claim 15 is allowable for ruler demarcations along one edge of the step as specifically set forth in the claims.

***Conclusion***

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

1113.

  
CQN  
1/115/04.

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600

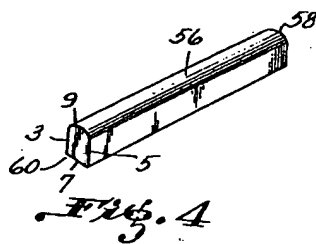
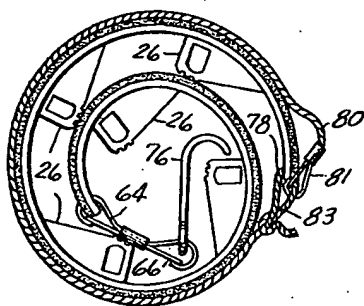
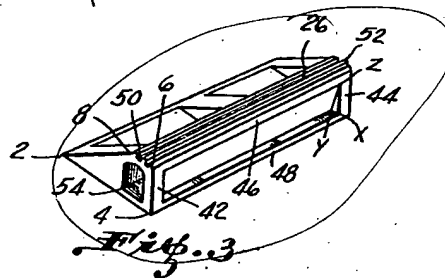
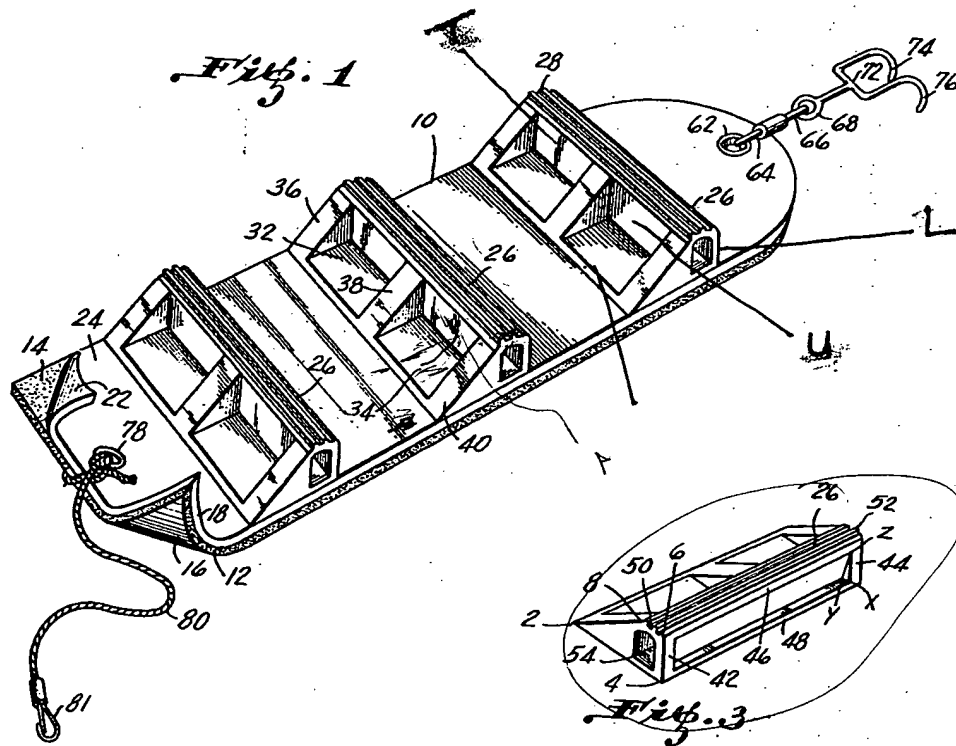
May 17, 1955

J. MATICH  
RUBBER GRIP ROOF LADDER

2,708,543

Filed July 13, 1953

2 Sheets-Sheet 1



INVENTOR

*John Matich*

BY

ATTORNEY